IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 468 of 1985

For Approval and Signature:
***HONOURABLE* MS. JUSTICE R.M.DOSHIT**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to civil judge ?

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GUJ. STATE ROAD TRANSPORT CORPN., - Appellant(s)
Versus
N B PATEL & 1 - Defendant(s)

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Appearance :
Ms ARCHANA PATEL for Mr HARDIK C RAWAL for Appellant
NOTICE SERVED BY DS for Defendant(s) : 1,
NOTICE SERVED for Defendant(s) : 2,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT
9th October, 2007

ORAL JUDGMENT

This Appeal arises from the judgment and award dated 23rd December, 1983 passed by the Motor Accident Claims Tribunal [Main], Surendranagar in Claim

Petition No. 8 of 1983.

On the fateful day ie., 7th November, 1982, the respondent no.1, the claimant of Claim Petition No. 8 of 1983 was travelling in an ST Corporation bus on Dwarka-Vadodara route. The claimant had boarded at Rajkot at around 3 p.m. After travelling for some distance on the National Highway No.8A, at around 4.45 p.m., the bus driver lost control. The bus slipped off the road and collided with a tree injuring several passengers. The claimant was one of such injured passenger. He received injury on scapular bone on the right side, fracture on the right second metacarpal and multiple abrasions on the right hand. He had received treatment at Civil Hospital Rajkot and from one Dr. Nandlal Parikh at Ahmedabad. According to the opinion of the said Dr. Nandlal Parikh, the claimant had suffered 10% disability of the right shoulder.

The claimant filed the above referred Claim Petition No. 8 of 1983 for compensation in the sum of Rs. 50,000/=. According to the claimant he was 30 years of age. He was an agriculturist cultivating some 40 Acres of land. He was earning Rs. 25,000/=

per annum. At the time of accident the crop of paddy was standing in his field. On account of the accident, he could not take the crop. The crop was wasted in the rains.

The learned Tribunal recorded a finding that the claimant was cultivating some 7 Acres of land. His monthly income was assessed at Rs. 500/=. Considering that the claimant was 30 years of age; was an agriculturist, had been treated in the hospital as an out-door patient and had suffered 10% disability in the shoulder joint, the learned Tribunal awarded compensation in the sum of Rs. 19,200/=.

Feeling aggrieved, the Gujarat State Road Transport Corporation has preferred the present First Appeal.

Ms. Patel has assailed the *impugned* judgment and award. She has submitted that the compensation awarded by the Tribunal is excessive.

I see no substance in the contention raised by Miss Patel. Considering the age of the claimant, the Tribunal has adopted a multiplier of 15 years. His income is assessed at Rs. 500/= per month. In view of

the 10% permanent disability suffered by the claimant, the loss of future income was computed to Rs. 600/= per year. Considering the 15 years' multiplier, the loss of future income is assessed at Rs. 9000/=. A sum of Rs. 7,000/= is awarded to the claimant under the head "*Pain, Shock & Suffering*"; a sum of Rs. 2,000/= is awarded for actual loss of income and a sum of Rs. 1,000/= towards expenses. Thus, by no stretch of imagination, the compensation awarded by the Tribunal can be said to be excessive.

For the aforesaid reasons, the Appeal is dismissed with cost.

{Ms. R.M Doshit, J.}

*Prakash**